

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES,)	
)	
Plaintiff,)	
)	
and the STATES OF ALABAMA, GEORGIA,)	
ILLINOIS, INDIANA, IOWA, MISSOURI,)	
NEBRASKA, NORTH CAROLINA, NORTH)	
DAKOTA, AND OHIO; and the IOWA)	
Counties of LINN and POLK, the OHIO)	
County of MONTGOMERY, and the)	
TENNESSEE County of SHELBY and City of)	
MEMPHIS,)	
)	Civil Action Number: 05-2037
)	(JMR/FLN)
)	
Plaintiff-Intervenors,)	
)	
v.)	
)	
CARGILL, INCORPORATED,)	
)	
Defendant.)	

MODIFICATION TO CONSENT DECREE

WHEREAS, the United States of America, on behalf of the United States Environmental Protection Agency (hereinafter "Plaintiff" or "the United States"), the States of Alabama, Georgia, Illinois, Indiana, Iowa, Missouri, Nebraska, North Carolina, North Dakota, and Ohio, the Iowa Counties of Linn and Polk, the Ohio County of Montgomery, the Tennessee County of Shelby and the Tennessee City of Memphis (hereinafter "Plaintiff-Intervenors") and Cargill, Incorporated (hereinafter "Cargill") are parties to a Consent Decree entered by the United States District Court for the District of Minnesota on March 3, 2006, File No. 05-2037 (hereinafter "the Consent Decree");

WHEREAS, Paragraph 86 of the Consent Decree allows the parties to make a material modification to the Consent Decree via a court-approved written agreement between the parties;

WHEREAS, Plaintiff has now designated the area in which Cargill's Dayton, Ohio corn processing facility is located as a "maintenance area for national ambient air quality standards, including ozone. The area had previously been designated a "nonattainment area" at the time the parties entered into the Consent Decree;

WHEREAS, nitrogen oxide ("NOx") and volatile organic compound ("VOC") emissions contribute to the formation of ground-level ozone;

WHEREAS, Cargill proposes modifications to the VOC and NOx control installation schedules required under the Consent Decree for the Dayton, Ohio corn processing facility ("the Dayton facility") that will accelerate the reduction of ozone-contributing pollutants under the Consent Decree and that will achieve greater actual reductions of those pollutants during the Consent Decree's implementation period;

WHEREAS, Cargill proposes to postpone by eighteen months the installation of certain VOC emission controls at the Dayton facility required under the Consent Decree;

WHEREAS, in exchange for being allowed to postpone installation of the above-referenced VOC emission controls, Cargill proposes to accelerate by twenty-two months the installation of certain NOx controls at the Dayton facility required under the Consent Decree;

WHEREAS, while the delayed installation of the VOC controls will result in an estimated increase in VOC emissions of 494.1 tons at the Dayton facility over the eighteen month period of postponement, the acceleration of the NOx controls' installation by twenty-two months will result in

an estimated additional decrease in NOx emissions at the facility of 640.6 tons during that twenty-two month period;

WHEREAS, the net result of these changes will be a reduction of 147 tons of ozone-contributing pollutant emissions beyond that which would have been achieved under the current Consent Decree;

WHEREAS, the parties believe the proposed changes are in the public interest, as they will result in air quality improvements;

NOW THEREFORE, the United States, the Plaintiff-Intervenors, and Cargill hereby agree that the Consent Decree shall thereby be modified as follows:

1. Paragraph 24 of the Consent Decree is deleted and restated in its entirety to read as follows:

24. Corn Processing VOC Emission Control Plan for Integrated Feed/Bran Drying Systems. For integrated feed/bran drying systems listed in Appendix I, Cargill will optimize existing pollution control equipment (thermal oxidizers and scrubbers) and implement emission reduction projects (including emission unit elimination and heat recovery) to meet pollution control equipment operating parameters set forth in Appendix I or eliminate the emission unit within the schedule set forth in Appendix I. Also within the schedule set forth in Appendix I, Cargill will test and establish an allowable short-term VOC emission limit at the outlet of each scrubber stack, as set forth in Appendix I, for each integrated feed/bran drying system. Within five years from lodging of this Consent Decree, Cargill shall submit permit applications to the applicable permitting authority to incorporate the pollution control equipment operating parameters and allowable short-term VOC emission

limits for integrated feed/bran drying systems listed in and established pursuant to Appendix I into federally enforceable permits.

2. Paragraph 30.e.ii. of the Consent Decree is deleted and restated in its entirety to read as follows:
 - ii. Integrated Feed/Bran Drying Systems. As stated in Paragraph 24, within the schedule set forth in Appendix I, Cargill will monitor and demonstrate compliance with control equipment operating parameters established under Appendix I. Also, within the schedule set forth in Appendix I, Cargill will monitor control equipment and conduct testing as provided in Appendices I and M (Performance Testing Plan).
3. Appendix D of the Consent Decree is deleted and replaced in its entirety by the version of Appendix D that is attached as Attachment A to this document.
4. Appendix I of the Consent Decree is deleted and replaced in its entirety by the version of Appendix I that is attached as Attachment B to this document.
5. Appendix M of the Consent Decree is deleted and replaced in its entirety by the version of Appendix M that is attached as Attachment C to this document.
6. The parties agree that the terms set forth in paragraph 83 of the Consent Decree with regard to public notice and comment also apply to this modification of the Consent Decree.
7. The parties agree that any Plaintiff-Intervenor may delegate authority to the Plaintiff or another Plaintiff-Intervenor to execute this modification to the Consent Decree on its behalf. Any party who executes this modification on behalf of another party warrants that it has been given the requisite authorization to do so.
8. This modification to the Consent Decree shall be effective as soon as it is executed by or on

behalf of all the parties.

So entered, in accordance with the foregoing, this _____ day of _____, 2008.

United States District Court Judge
District of Minnesota

FOR PLAINTIFF, UNITED STATES OF AMERICA:

Ronald J. Tenpas
Assistant Attorney General
Environmental and Natural Resources Division
U.S. Department of Justice
10th & Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Date: June 18, 2008

Dianne M. Shawley
Senior Counsel
Environmental and Natural Resources Division
U.S. Department of Justice
601 D Street, N.W.
Washington, D.C. 20004

Date: April 29, 2008

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Granta Y. Nakayama, Assistant Administrator
Office of Enforcement and Compliance Assurance

February 22, 2008

Date

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF ALABAMA

Date January 20, 2008

Ronald W. Gore
Chief, Air Division
Alabama Department of Environmental Management
PO Box 301463
Montgomery, AL 36130-1463

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF GEORGIA

Date March 3, 2008

Dr. Carol A. Couch, Ph.D.
Director
Georgia Department of Natural Resources
Environmental Protection Division
2 Martin Luther King, Jr. Drive, SE
Suite 1152 East
Atlanta, GA 30334

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF ILLINOIS

FOR THE STATE OF ILLINOIS
PEOPLE OF THE STATE OF ILLINOIS *ex rel.*

LISA MADIGAN
Attorney General of the State of Illinois

MATHEW J. DUNN, Chief
Environmental Enforcement/Asbestos Litigation Division

BY: §
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

DATE: April 29, 2008

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY:
WILLIAM D. INGERSOLL
Acting Chief Legal Counsel

DATE: April 29, 2008

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF INDIANA

STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By:

Valerie Tachtiris
Deputy Attorney General
Atty. No. 24421-53
Indiana Attorney General's Office
Indiana Government Center South-5th Floor
302 West Washington Street
Indianapolis, IN 46204

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF IOWA

DAVID R. SHERIDAN
Assistant Attorney General
Environmental Law Division
Lucas State Office Building
321 E. 12th Street, Room 018
Des Moines, Iowa 50319

Phone: (515) 281-6714

April 29, 2008

DATE

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF MISSOURI

STEVEN FEELER
Chief, Compliance/Enforcement Chief
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102

May 5, 2008
DATE

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF NEBRASKA

May 5, 2008

MICHAEL J. LINDER, Director
Department of Environmental Quality,

JON BRUNING #20351
Attorney General
Katherine J. Spohn #22979
Assistant Attorney General
2115 State Capitol Bldg.
Lincoln, NE 68509
Tel. (402) 471-2682

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF NORTH CAROLINA

Date February 22, 2008

Name B. Keith Overcash
Title Director, Division of Air Quality
Address 1641 Mail Service Center
Raleigh, NC 27699-1641

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF NORTH DAKOTA

TERRY L. DWELLE, MD, MPHTM
State Health Officer
State of North Dakota
600 E. Boulevard Avenue
2nd Floor – Judicial Wing
Bismarck, ND 58805-0200
Telephone 701-328-2372

May 5, 2008

DATE

FOR THE PLAINTIFF-INTERVENOR, THE STATE OF OHIO

Date January 30, 2008

Name Margaret A. Malone
Title Assistant Attorney General
Address Ohio Attorney Generals Office
Environmental Protection Division
Public Protection Division
30 East Broad Street – 25th Floor
Columbus, Ohio 43215-3400

FOR THE OHIO COUNTY OF MONTGOMERY

Date January 31, 2008

Name John A. Paul
Title RAPCA Administrator
Address 117 South Main Street
Dayton, Ohio 45422

FOR PLAINTIFF-INTERVENOR MEMPHIS-SHELBY COUNTY HEALTH DEPARTMENT:

BOB ROGERS
Manager, Pollution Control
Memphis-Shelby County Health Department
814 Jefferson Avenue
Memphis, TN 38105

May 5, 2008

DATE

FOR PLAINTIFF-INTERVENOR THE COUNTY OF LINN, IOWA:

JEFFREY L. CLARK
Assistant Linn County Attorney

Jeffrey L. Clark
Attorney in Charge
Assistant Linn County Attorney
Linn County Courthouse
51 3rd Ave, Bridge
Cedar Rapids, Iowa 52401
Telephone (319) 892-6340
Facsimile (319) 892-6389

May 5, 2008

DATE

FOR PLAINTIFF-INTERVENOR THE COUNTY OF POLK, IOWA:

MICHAEL B. O'MEARA _____
Assistant Polk County Attorney
111 Court Ave., Rm. 340
Des Moines, Iowa 50309
Telephone (515) 286-3341
Facsimile (515) 286-3314

May 5, 2008
DATE

FOR DEFENDANT, CARGILL, INCORPORATED

Date December 21, 2007

Jeffrey Fetterman
Assistant Vice President, Operations Manager
Cargill, Incorporated
15615 McGinty Road West
Wayzata, Minnesota 55391-2398